

REMARKS

Claims 59-63 and 66-70 were pending in the present application before entry of the present amendment.

Claims 61 and 62 are amended herein. Support for these amendments can be found, for example, at page 4, lines 24-27, and at page 23, lines 8-10, of the specification as originally filed.

Claim 70 is canceled herein without prejudice. Applicants reserve the right to prosecute the subject matter of the canceled claim in one or more related divisional, continuation, and / or continuation-in-part applications.

No new matter has been introduced by the present amendment. Upon entry of the present amendment, claims 59-63 and 66-69 will be pending.

The Rejection under 35 U.S.C. § 112, 2nd paragraph

Claim 62 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner alleges that the metes and bounds of “hybridize under stringent conditions” is not clear (page 2 of the final office action, dated September 1, 2010). Applicants respectfully disagree. Nevertheless, in order to expedite the allowance of the application, Applicants have amended claim 62 by deleting the language of “hybridize under stringent conditions.”

Thus, Applicants respectfully request that the rejection of claim 62 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Double Patenting Rejection

Claims 59-63, 66, 67, 69, and 70 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting over co-pending U.S. Patent Application No.: 10/466,811 ("811 Application").

Applicants submitted on June 7, 2010 a terminal disclaimer. This terminal disclaimer indicated that the filing date of the '811 Application is January 18, 2002. According to the

Office Action of September 1, 2010, the filing date of the '811 Application as indicated in the terminal disclaimer submitted on June 7, 2010 is incorrect. Applicants disagree because the '811 Application is the U.S. national stage application of PCT application No. PCT/NL02/00040 with international filing date of January 18, 2002. Thus, according to 35 U.S.C. § 363, the correct filing date of the '811 Application is the filing date of the international application PCT/NL02/00040, namely January 18, 2002.

However, to expedite allowance of this application, Applicants submit concurrently herewith a new terminal disclaimer, which indicates that the 371(c) date of the '811 Application is March 4, 2004 as indicated on the filing receipt for the '811 Application of February 25, 2005. A copy of the filing receipt for the '811 Application is enclosed herewith. Applicants want to point out that the new terminal disclaimer submitted herewith is not a USPTO form.

A fee in the amount of \$140.00 is believed to be due for submitting the terminal disclaimer. The Commissioner is authorized to charge any required fee to Jones Day Deposit Account No. 50-3013. If any additional fees are due, please charge any such required fees to Jones Day Deposit Account No. 50-3013.

CONCLUSION

Applicants respectfully request that the above remarks and amendments be entered and made of record in the present application file.

Respectfully submitted,

Date: February 1, 2011



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